

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF ILLINOIS

IN RE:)
) Case No. 01-34066
CHEMETCO, INC.,)
)
Debtor) Chapter 7

NOTICE OF ENTRY OF SEAL ORDER PURSUANT TO SECTION 34
OF THE ILLINOIS ENVIRONMENTAL PROTECTION ACT

Now comes James E. Ryan, Attorney General of the State of Illinois, on behalf of the Illinois Environmental Protection Agency and submits this Notice of Entry of Seal Order pursuant to Section 34 of the Illinois Environmental Protection Act for purposes of protection of human health by restricting access to portions of the Hartford, Illinois, facility of the Debtor, Chemetco, Inc.

1. Pursuant to Section 34(b) of the Illinois Environmental Protection Act, 415 ILCS 5/34(b) (2000), the Illinois Environmental Protection Agency (the "Illinois EPA") is authorized, pursuant to the State's police and regulatory power, to issue a seal order to restrict or eliminate access to property when an emergency condition exists creating an immediate danger to health.

2. As a result of the manner in which Chemetco ceased operations at the Hartford facility, an emergency condition creating an immediate danger to health exists throughout much of the Hartford facility, including the smelting building and the fines building. Therefore, the Illinois EPA has issued a Seal Order, attached hereto as Attachment A covering certain portions of the Hartford facility where conditions exist which pose an immediate danger to health.

3. Under the Seal Order, access to sealed portions of the facility would be subject to review, approval, and conditions set by Illinois EPA.

4. Pursuant to 11 U.S.C 362(b)(4), the issuance of the Seal Order would not be subject to

the automatic stay under 11 U.S.C. 362(a)(1) or (3) as a proceeding to enforce the State's police and regulatory power. The state has notified the Trustee of its intent to issue the Seal Order and as of the date of filing of this motion, the Trustee has not objected to issuance of the Seal Order to protect human health.

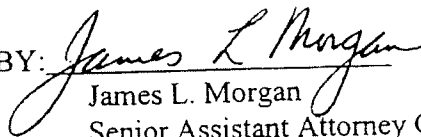
5. The Illinois EPA agrees that the Trustee shall be provided access to the sealed portion of the facility under conditions necessary to protect human health for purposes of performing her duties as Trustee and the Seal order recognizes the opportunity to obtain such access.

WHEREFORE, the Illinois Environmental Protection Agency notifies this Court of the entry of the attached Seal Order.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

JAMES E. RYAN
ATTORNEY GENERAL
STATE OF ILLINOIS

BY: 

James L. Morgan
Senior Assistant Attorney General
Environmental Bureau
500 South Second Street
Springfield, Illinois 62706
Phone: 217-524-7506; Telefax: 217-524-7740

• **W** **W** **W**

• **W** **W** **W**

• **W** **W** **W**

• **W** **W** **W**

• **W** **W** **W**

• **W** **W** **W**

- **W** **W** **W**

II. PARTIES BOUND

This order is binding on and prohibits entry onto the sealed portions of the Facility for all persons except the following:

- a. Employees, authorized agents or contractors of the Illinois EPA.
- b. Employees, authorized agents or contractors of the United States Environmental Protection Agency.
- c. Local police, fire and emergency personnel entering in the course of their duties.
- d. Other persons who have received written authorization to enter the Facility from the Illinois EPA and who enter the Facility in a manner in accordance with any instructions contained within the written authorization.

III. FINDINGS


1. The Facility is a former copper smelter located in Hartford, Madison County, Illinois. During its operation, the Facility generated sludges, baghouse dust, refractory brick, acids and other materials.
2. The operator of the Facility, Chemetco, Inc., filed bankruptcy under Chapter 7 in the U.S. Bankruptcy Court for the Southern District of Illinois on November 13, 2001 and is no longer managing the Facility.
3. The Facility has eight hazardous waste management units subject to closure requirements under the Resource Conservation and Recovery Act ("RCRA"). Closure has not been completed at any of these units.
4. A large pile of slag, estimated to be in excess of 100,000 tons, is located at the facility. This slag has tested as hazardous for the toxicity characteristic for lead. Slag fines are also located on the pile of slag.

5. A large bunker, known as the zinc oxide bunker, also contains sludges that have tested hazardous for the toxicity characteristic for lead.
6. Chemetco, Inc. pled guilty in the U.S. District Court for the Southern District of Illinois to violating the Clean Water Act by discharging wastewaters containing hazardous levels of lead and cadmium into a wetlands area and Long Lake over the course of approximately ten years. This discharge took place to the south of the fenced portion of the Facility, across Oldenberg Road and resulted in the deposition of hazardous contaminants in a wetlands area and Long Lake. The RCRA closure plan for the areas related to this discharge has not been completed.
7. A groundwater interceptor system, known as the SID system, is located to the south of the fenced portion of the facility and east of the discharge area.
8. A surface water impoundment is located to the south of the fenced portion of the Facility. This impoundment has received waters from the plant that may contain contaminants. The impoundment also does not have any physical barrier to access.
9. Fines and other materials containing hazardous levels of lead and cadmium are uncontained and located throughout the Facility.
10. The various contaminants described may become airborne and may be transported by flowing water.
11. The conditions at the Facility constitute an emergency that may pose an immediate threat to human health for any person entering into the Facility.

IV. ORDER

Pursuant to Section 34(b) of the Act the Facility is hereby sealed as indicated in this order, effective on the date of execution. Unauthorized entry into the areas described

in Section I is prohibited. This order shall remain in effect until rescinded by the Illinois
EPA.


Renee Cipriano
Director

Dated: 12/4/01

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF ILLINOIS

IN RE:)
) Case No. 01-34066
CHEMETCO, INC.,)
)
Debtor) Chapter 7

**NOTICE OF ENTRY OF SEAL ORDER PURSUANT TO SECTION 34
OF THE ILLINOIS ENVIRONMENTAL PROTECTION ACT**

Now comes James E. Ryan, Attorney General of the State of Illinois, on behalf of the Illinois Environmental Protection Agency and submits this Notice of Entry of Seal Order pursuant to Section 34 of the Illinois Environmental Protection Act for purposes of protection of human health by restricting access to portions of the Hartford, Illinois, facility of the Debtor, Chemetco, Inc.

1. Pursuant to Section 34(b) of the Illinois Environmental Protection Act, 415 ILCS 5/34(b) (2000), the Illinois Environmental Protection Agency (the "Illinois EPA") is authorized, pursuant to the State's police and regulatory power, to issue a seal order to restrict or eliminate access to property when an emergency condition exists creating an immediate danger to health.

2. As a result of the manner in which Chemetco ceased operations at the Hartford facility, an emergency condition creating an immediate danger to health exists throughout much of the Hartford facility, including the smelting building and the fines building. Therefore, the Illinois EPA has issued a Seal Order, attached hereto as Attachment A covering certain portions of the Hartford facility where conditions exist which pose an immediate danger to health.

3. Under the Seal Order, access to sealed portions of the facility would be subject to review, approval, and conditions set by Illinois EPA.

4. Pursuant to 11 U.S.C 362(b)(4), the issuance of the Seal Order would not be subject to

the automatic stay under 11 U.S.C. 362(a)(1) or (3) as a proceeding to enforce the State's police and regulatory power. The state has notified the Trustee of its intent to issue the Seal Order and as of the date of filing of this motion, the Trustee has not objected to issuance of the Seal Order to protect human health.

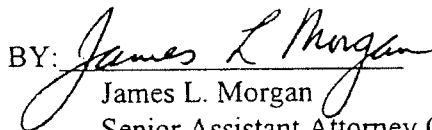
5. The Illinois EPA agrees that the Trustee shall be provided access to the sealed portion of the facility under conditions necessary to protect human health for purposes of performing her duties as Trustee and the Seal order recognizes the opportunity to obtain such access.

WHEREFORE, the Illinois Environmental Protection Agency notifies this Court of the entry of the attached Seal Order.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

JAMES E. RYAN
ATTORNEY GENERAL
STATE OF ILLINOIS

BY: 

James L. Morgan
Senior Assistant Attorney General
Environmental Bureau
500 South Second Street
Springfield, Illinois 62706
Phone: 217-524-7506; Telefax: 217-524-7740

IN THE MATTER OF:)
)
Chemetco, Inc. facility, Madison County.)

The Illinois Environmental Protection Agency ("Illinois EPA") issues this seal order pursuant to the authority vested in it by Section 34(b) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/34(b).

The Chemetco, Inc. facility ("Facility") is located in Hartford, Madison County, Illinois. The portions of the Facility to which this seal order applies are as follows:

- a. All areas within the fencing in place surrounding the plant portion of the Facility as of the date of this order, excluding the main office. See Attachment A.
- b. The truck parking area consisting of fill and slag that is located to the south of the fenced portion of the Facility and is adjacent to Oldenberg Road. See Attachment B.
- c. The area impacted by the illegal discharge south of the fenced portion of the Facility, including the four containment areas and that portion of Long Lake owned by Chemetco, Inc. See Attachment C.
- d. The area containing the groundwater interceptor system, known as the SID system, located south of the fenced portion of the facility and east of the discharge area. See Attachment B.
- e. The surface impoundment located south of Oldenburg Road and east of the SID system. See Attachment B.

II. PARTIES BOUND

This order is binding on and prohibits entry onto the sealed portions of the Facility for all persons except the following:

- a. Employees, authorized agents or contractors of the Illinois EPA.
- b. Employees, authorized agents or contractors of the United States Environmental Protection Agency.
- c. Local police, fire and emergency personnel entering in the course of their duties.
- d. Other persons who have received written authorization to enter the Facility from the Illinois EPA and who enter the Facility in a manner in accordance with any instructions contained within the written authorization.

III. FINDINGS

1. The Facility is a former copper smelter located in Hartford, Madison County, Illinois. During its operation, the Facility generated sludges, baghouse dust, refractory brick, acids and other materials.
2. The operator of the Facility, Chemetco, Inc., filed bankruptcy under Chapter 7 in the U.S. Bankruptcy Court for the Southern District of Illinois on November 13, 2001 and is no longer managing the Facility.
3. The Facility has eight hazardous waste management units subject to closure requirements under the Resource Conservation and Recovery Act ("RCRA"). Closure has not been completed at any of these units.
4. A large pile of slag, estimated to be in excess of 100,000 tons, is located at the facility. This slag has tested as hazardous for the toxicity characteristic for lead. Slag fines are also located on the pile of slag.

5. A large bunker, known as the zinc oxide bunker, also contains sludges that have tested hazardous for the toxicity characteristic for lead.
6. Chemetco, Inc. pled guilty in the U.S. District Court for the Southern District of Illinois to violating the Clean Water Act by discharging wastewaters containing hazardous levels of lead and cadmium into a wetlands area and Long Lake over the course of approximately ten years. This discharge took place to the south of the fenced portion of the Facility, across Oldenberg Road and resulted in the deposition of hazardous contaminants in a wetlands area and Long Lake. The RCRA closure plan for the areas related to this discharge has not been completed.
7. A groundwater interceptor system, known as the SID system, is located to the south of the fenced portion of the facility and east of the discharge area.
8. A surface water impoundment is located to the south of the fenced portion of the Facility. This impoundment has received waters from the plant that may contain contaminants. The impoundment also does not have any physical barrier to access.
9. Fines and other materials containing hazardous levels of lead and cadmium are uncontained and located throughout the Facility.
10. The various contaminants described may become airborne and may be transported by flowing water.
11. The conditions at the Facility constitute an emergency that may pose an immediate threat to human health for any person entering into the Facility.

IV. ORDER

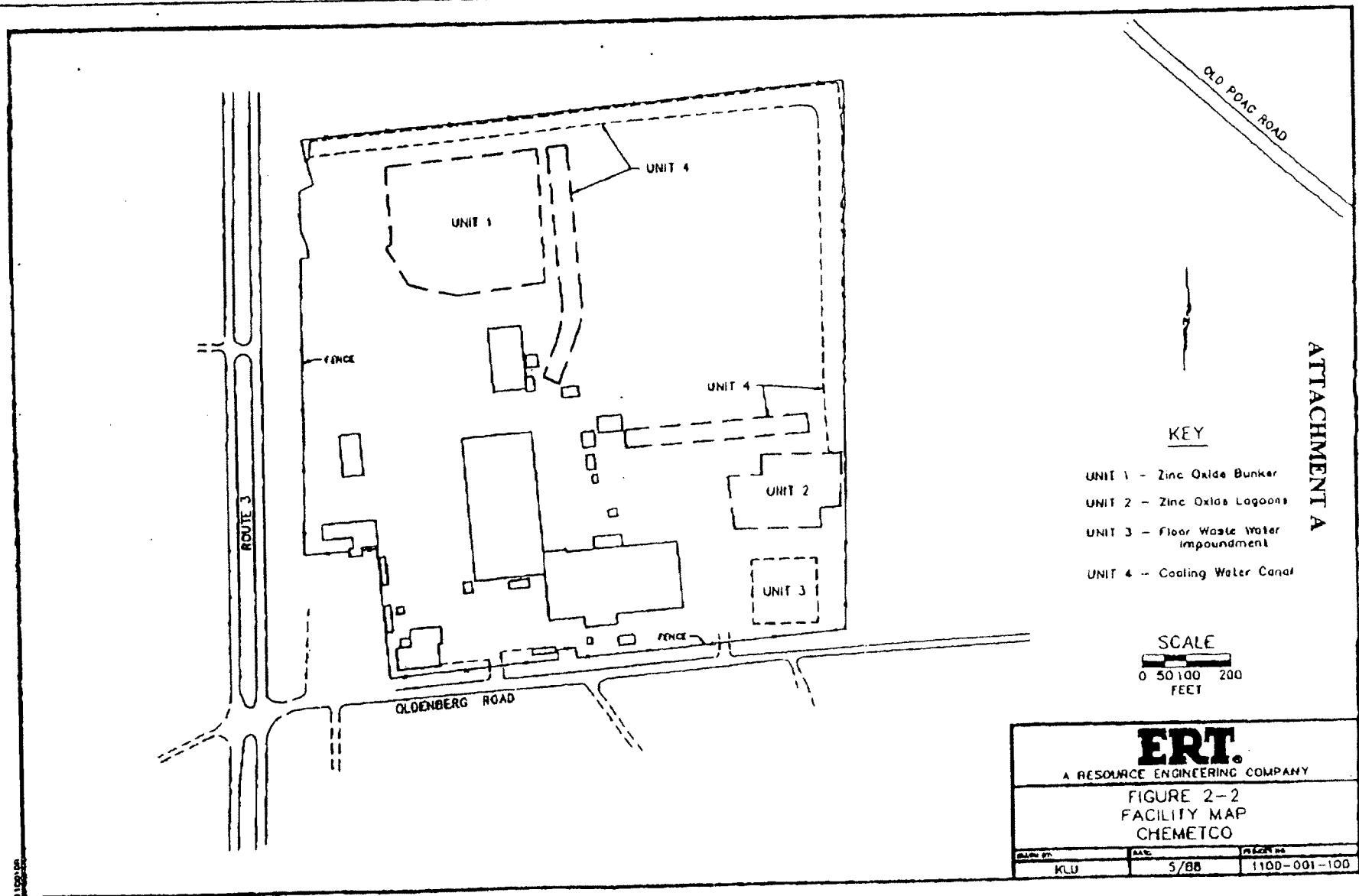
Pursuant to Section 34(b) of the Act the Facility is hereby sealed as indicated in this order, effective on the date of execution. Unauthorized entry into the areas described

in Section I is prohibited. This order shall remain in effect until rescinded by the Illinois
EPA.

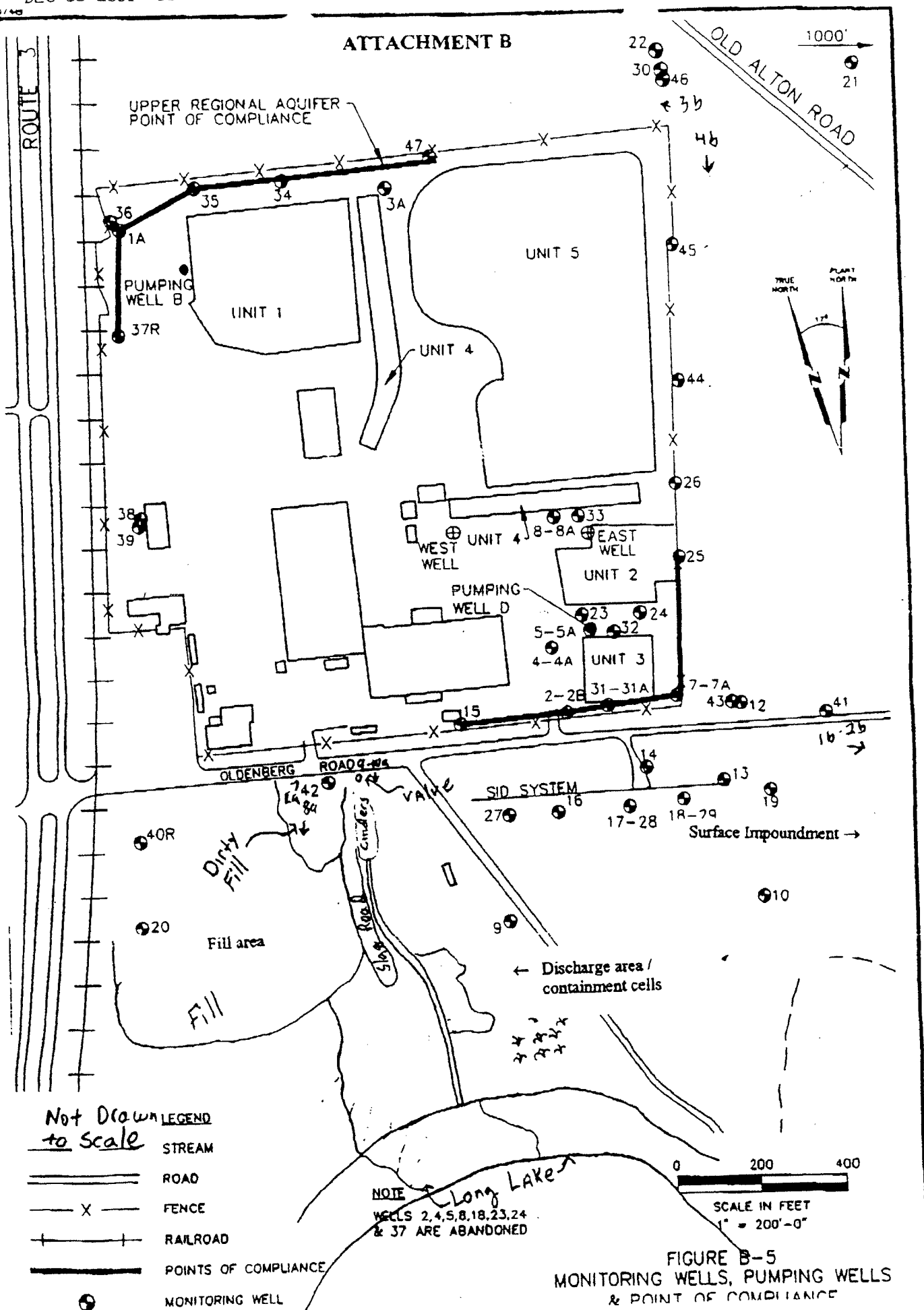
A handwritten signature in cursive script, appearing to read "Renée Cipriano", is written over a horizontal line.

Renée Cipriano
Director

Dated: 12/4/01



ATTACHMENT B



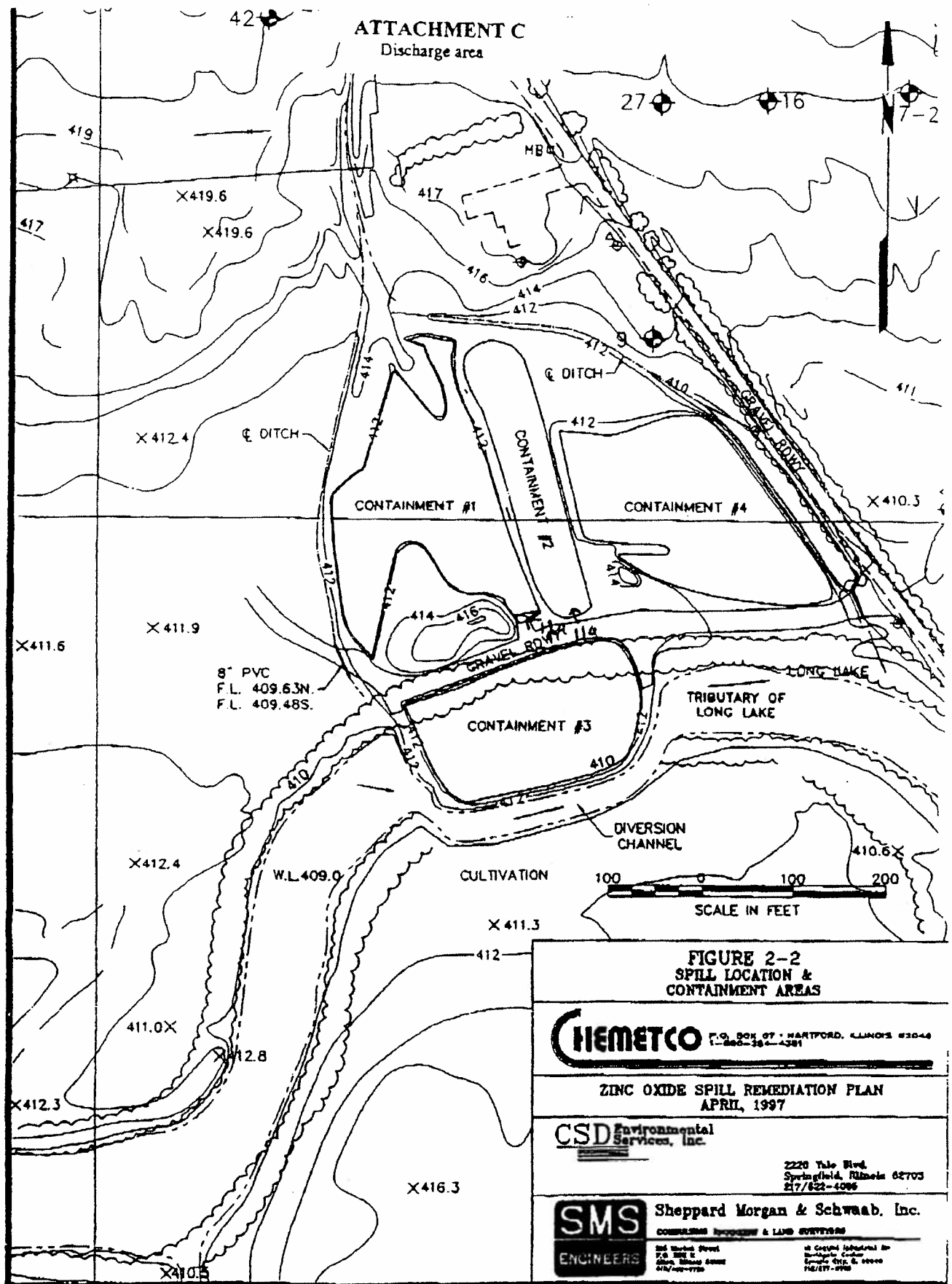


FIGURE 2-2
SPILL LOCATION &
CONTAINMENT AREAS

CHEMETCO P.O. BOX 97 • HARTFORD, CONNECTICUT 06104
T-860-3644-4381

ZINC OXIDE SPILL REMEDIATION PLAN
APRIL, 1997

CSD Environmental Services, Inc.

2220 Yale Blvd.
Springfield, Illinois 62703
217/822-4086

SMS
ENGINEERS

Sheppard Morgan & Schwaab, Inc.

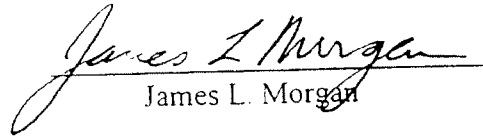
CONSULTING ENGINEERS & LAND SURVEYORS

200 Market Street
P.O. Box 2
Hartford, Connecticut
06103-0002
617/467-7700

10 Central Industrial Dr.
Bridgewater, Connecticut
06606-0000
617/677-7700

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Notice of Entry of Seal Order Pursuant to Section 34 of the Illinois Environmental Protection Act served on this date on the persons identified on the attached service list by U.S. Mail, postage pre-paid.


James L. Morgan

DATED: 12-6-01

SERVICE LIST

Laura K. Grandy
U.S. Trustee
Mathis, Marifian, Richter & Grandy, Ltd.
720 West Main Street, Suite 100
Belleville, IL 62220

Teresa A. Generous
10 South Broadway
St. Louis, MO 63102-1774

Edward J. Hopper
Office of the United States Trustee
401 Main Street, Suite 1100
Peoria, IL 61602

Dan Nester
Bryan Cave
1 Metropolitan Square, Suite 3600
St. Louis, MO 63102

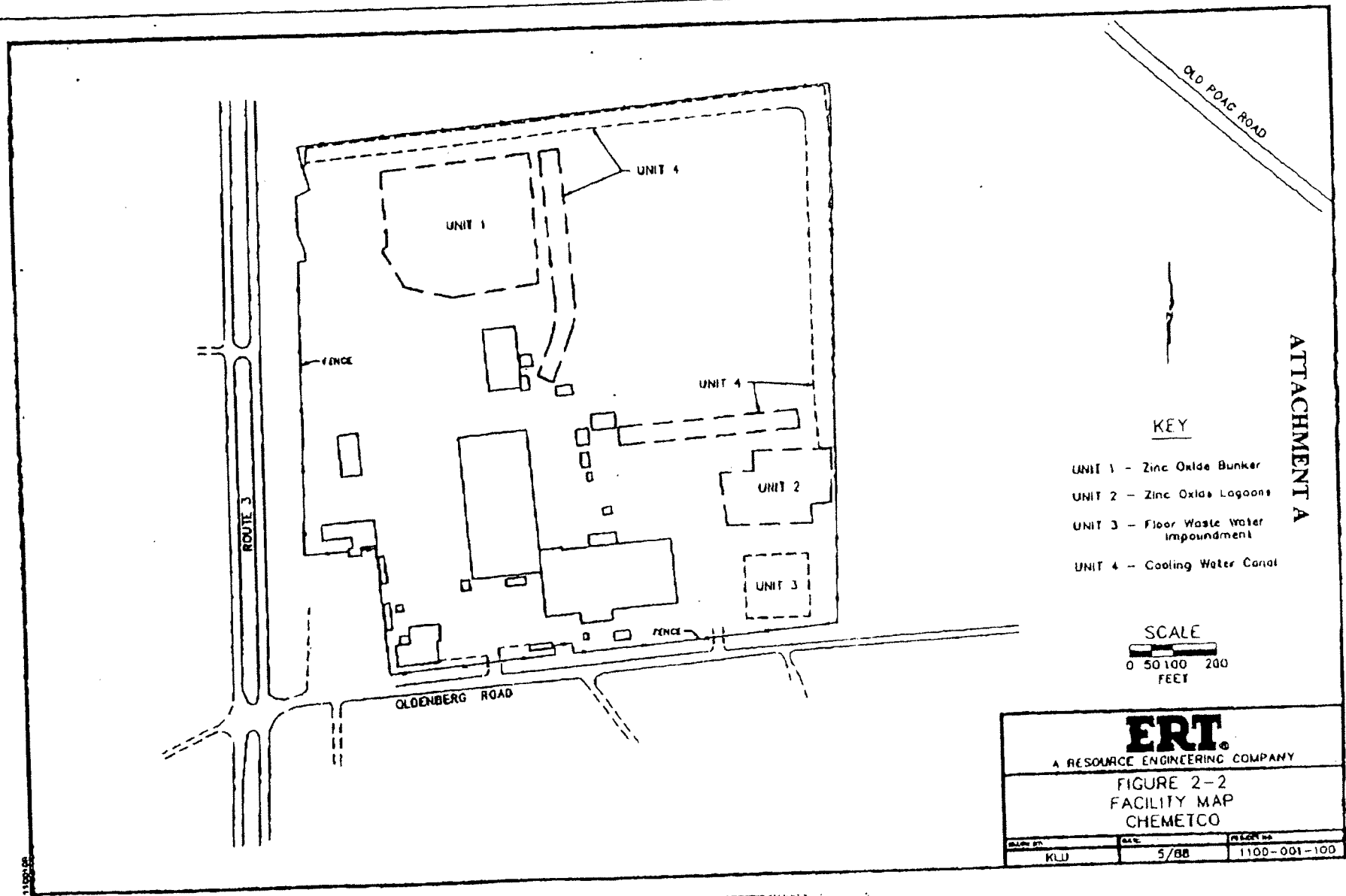
Penni Livingston
6001 Old Collinsville Road
Fairview Heights, IL 62208

Steven J. Reisman
Curtis, Mallet-Prevost, Colt & Mosle, LLP
101 Park Avenue
New York, NY 10178-0061

1198010003 – Madison County
Chemetco, Inc.
ILD048843809

ATTACHMENT A

1. All personnel entering the Fines Storage/Processing Building, Slag Granulation and Processing Building and the Foundry Area must wear the appropriate level of respiratory protection for lead and cadmium exposure pursuant to U.S. Department of Labor Occupational Health and Safety Administration regulations.
2. All street sweeping equipment, rubber wheeled vehicles and track equipment must be decontaminated prior to removal from the sealed portions of the Facility. All decontamination residues must be managed pursuant to 35 Ill. Adm. Code Parts 703, 721, 722, 724, 724, 728 and 808 of the Illinois Pollution Control Board Regulations.
3. All hazardous materials and hazardous wastes removed from the sealed portions of the Facility must be packaged, labeled, marked and shipped pursuant to U.S. Department of Transportation and U.S. Environmental Protection Agency regulations.
4. No eating, drinking or smoking in the sealed portions of the Facility, except in the main office buildings.
5. Movement of scrap or other material and vehicular traffic must be conducted in a manner that will minimize the release of particulate fugitive emissions to the atmosphere. A Fugitive Emissions Control Plan, that will achieve a level of 95 percent control, must be submitted and approved by the Illinois Environmental Protection agency prior to removal of material from the Chemetco site.
6. All visitors entering into the sealed portions of the Facility must sign in at the security station and provide identification.
7. All personnel entering the sealed portions of the Facility must wear personal protective equipment that includes hard hats, safety glasses with side shields and hard-soled shoes. All safety equipment must meet and be used in accordance with all applicable U.S. Department of Labor Occupational Health and Safety Administration regulations.
8. All personnel not designated by this letter to enter the sealed portions of the Facility must obtain written permission from the Illinois Environmental Protection Agency, 2009 Mall Street Collinsville, Illinois 62234 (618) 346-5120.
9. No hunting, fishing or use of all terrain vehicles on the sealed portions of the Facility.



ATTACHMENT B

